

REMARKS

I. Drawings

The drawings have been amended to correct a typographical error and more clearly indicate the invention as disclosed in the specification. More specifically, in Figure 5 reference numeral 20a has been changed to 25a and reference numeral 20a has been added to indicate the proper portion of the figure.

II. Abstract Objections

The abstract of the disclosure has been objected to because of the inclusion of legal terminology, more specifically the word "means." Through this response, a replacement abstract has been provided and all such legal language has been removed.

III. Specification Objections

The specification has been objected to as containing various informalities. Specifically the Office Action identifies that "on page 11[8] line 1 reference number '27' should be --17--. On page 11[8] line 1 reference number '6' should be --16--." Applicants have amended the specification as suggested by the Office Action.

Various amendments have been made to the specification through this response to provide a correct and accurate description of Applicants invention as originally disclosed. Although these amendments affect several changes to the specification, it is respectfully asserted that no new matter has been added.

IV. Claim Rejections – 35 U.S.C. §112, Second Paragraph

Claims 1-11 and 14-20 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention.

In particular, the Examiner states "regarding claim 1, the phrase 'and the like' renders ...the scope of the claim(s) unascertainable." In response to this rejection, Applicants have

amended claim 1 to remove the indefinite phrase. As such, those claims that depend from independent claim 1 are similarly no longer indefinite based on the indefinite phrase.

The Examiner states claim 7 is rejected as being indefinite because “it is unclear what axis the second drive disc is on.” In response to this rejection, Applicants have amended claim 7 to more clearly indicate the disposition of the second drive disc.

The Examiner states claim 10 is rejected as being indefinite because “it is unclear what axis the central toothed wheel is rotatable about.” Applicants have amended claim 10 to more clearly indicate the disposition of the central toothed wheel.

The Examiner states claims 14, 16, 18, and 20 are rejected as being indefinite because “each of these claims states the distance between the accommodation spaces is different from each end. ...the spaces are not stated as being movable and therefore as the claim is worded it appears the distance between the spaces remains constant and thus cannot be different.” Claims 14, 16, 18, and 20 do not recite that the accommodation spaces are moveable relative to each other, as it appears the Examiner believes. Rather, these claims recite that the distance between the two spaces at their one end differs from the distance between the two spaces at their opposing end. This fact is even more apparent from Figure 7B of the application. The specification of the pending application provides “the distance is x and y between the access openings of the passages 31 situated on either side may differ from each other.” Page 10, lines 13 and 14.

In addition to the above noted amendments, various other changes have been made to the claims to provide an accurate and precise description of the Applicants’ originally disclosed invention.

In view of the above described amendments to the claims, it is respectfully asserted that claims 1-11 and 14-20 currently define the invention in the manner acquired by 35 U.S.C. §112. Accordingly, it is respectfully requested that the rejections to these claims be withdrawn.

V. Claim Rejections – 35 U.S.C. §102(b)

Claims 1-4, 12, 14 and 17-20 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,791,704 to *Chapman*.

A. Claims 1-4, 17 and 18

The rejection states that *Chapman* discloses Applicants' invention as recited in the above-identified claims including "orientation means – see for example 3 and 14, further being present for equalizing the [spacial] orientation of the carcasses in the holder at receipt on the transfer wheel -6- see columns 3-4 and the spacial final orientation of the carcass in the holder at its discharge from the transfer wheel -6- see columns 4-5." Applicants respectfully traverse this rejection.

As provided in independent claim 1, as amended, Applicants claim:

1. An apparatus for transferring poultry carcasses suspended from shackles from a first overhead conveyor to a second overhead conveyor, in which overhead conveyors the carcasses are transported suspended from shackles comprising a transfer wheel rotatable about a vertical axis and positioned between both the first and the second overhead conveyors, said transfer wheel being provided with holders for the carcasses, and *orientation means further being present for equalizing the spacial initial orientation of the carcass in the holder at receipt on the transfer wheel and the spacial final orientation of the carcass in the holder at its discharge from the transfer wheel, the spacial initial orientation and the spacial final orientation being identical relative to the direction of travel of the carcass from the first overhead conveyor to the second overhead conveyor.*

(Emphasis added). Accordingly, Applicants' claim defines an apparatus for transferring poultry carcasses wherein the spacial initial orientation and the spacial final orientation of the carcasses are identical relative to the direction of travel.

It is axiomatic that "[a]nticipation requires the disclosure in a single prior art reference of *each element* of the claim under consideration." W.L. Gore & Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 1554, 220 U.S.P.Q. 303, 313 (Fed. Cir. 1983) (emphasis added). Therefore, every claimed feature of the claimed invention must be represented in the applied reference to constitute a proper rejection under 35 U.S.C. §102(b).

In the present case, not every feature of the claimed invention is represented in the *Chapman* reference. Primarily *Chapman* does not disclose, teach or suggest the recited elements of independent claim 1 highlighted above. The specification provides "[a]s can be seen in figure 1A and 2 the spacial orientation of the holders 11 here remains the same, and thus of the

carcasses suspended in the holders 11. In this way during transferring the carcasses from the first conveyor to the second conveyor... it is also achieved that the carcasses are transferred to the second conveyor in the orientation suitable for the next treatment.” Page 9, lines 10-15. Clearly, when viewing Figures 1A and 1B, it is apparent that a carcass entering the transfer wheel as claimed, with its breastplate oriented to the right hand side of the figure will exit the transfer wheel with its breastplate still oriented toward the right hand side of the figure. In contrast, a carcass entering the transfer wheel as described in *Chapman* with its breastplate facing the right hand side of Figure 1 will exit the transfer wheel with its breastplate facing the left hand side of the figure. In describing Figure 5, *Chapman* provides “the sector member 7 will, therefore, rotate the plate 10 and will also pivot relative to each other about the pivot point 9.” Column 4, lines 31-33. Upon viewing Figure 5, it becomes evident that as the sector member 7 rotates about pivot point 9, the respective carcass held by each sector member will be rotated such that the carcass’s disposition relative to the direction of travel is 180° different with respect to its initial and final spacial orientations.

Due to these clear shortcomings of the *Chapman* reference, Applicants respectfully assert that *Chapman* does not anticipate independent claim 1. Dependent claims 2-4, 17 and 18 are believed to be allowable for at least the reason that these claims depend from allowable independent claim 1. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988). Therefore, Applicants respectfully request that the rejection of these claims be withdrawn.

B. Claims 12, 13, 19 and 20

As provided in independent claim 12, as amended, Applicants claim:

12. An apparatus for transferring poultry carcasses from a first overhead conveyor to a second overhead conveyor, in which overhead conveyors the carcasses are transported suspended from shackles comprising a transfer wheel rotatable about a vertical axis and positioned between both the first and the second overhead conveyors, which wheel is provided with holders for the carcasses, and *orientation means further being present for rotating the each holder about a central shaft with respect to the transfer wheel during the transport of the holders by the transfer wheel, wherein each central shaft is radially spaced from the shaft of the transfer wheel.*

(Emphasis added). Accordingly, Applicants' claim defines an apparatus for transferring poultry carcasses wherein each holder includes a central shaft that is radially displaced from the shaft of the transfer wheel in which the holders are mounted. As shown in Figures 3 and 5 of *Chapman*, the sector members 7, or holders, rotate about the same axis of rotation as the transfer arrangement 6, that being the pivot point 9. Therefore, *Chapman* does not anticipate independent claim 12, as amended.

Due to these clear shortcomings of the *Chapman* reference, Applicants respectfully assert that *Chapman* does not anticipate independent claim 12. Dependent claims 13, 19 and 20 are believed to be allowable for at least the reason that these claims depend from allowable independent claim 12. Therefore, Applicants respectfully request that the rejection of these claims be withdrawn.

C. Rejection of Claim 14

The rejection alleges that *Chapman* discloses Applicants' invention as recited in the above-identified claim including "spaces for the legs of the carcass, the accommodation spaces each forming a continuous slit in the horizontal direction, the distance between the accommodation spaces at their one end being different from the distance therebetween at their other end." Applicants respectfully traverse this rejection.

As provided in independent claim 14, as amended, Applicants claim:

14. A holder for suspended transport of a poultry carcass, provided with two substantially parallel accommodation spaces for the legs of the carcass, the *accommodation spaces* each forming a continuous slit in horizontal direction from one end to the other end and *open at both ends, the distance between the accommodation spaces at their one end being different from the distance therebetween at their other end.*

(Emphasis added). Accordingly, Applicants' claim defines a holder for poultry carcasses having a pair of substantially parallel accommodation spaces each of which is open at both ends. In the present case, not every feature of the claimed invention is represented in the *Chapman* reference. As the Office Action does not provide the reference number of what it alleges to be the accommodation spaces, Applicants derive from the *Chapman* reference that the accommodation

spaces as referred to by the Office Action are the notches 8 as shown in Figure 5. The Graham reference provides "sector members 7 are preferably provided with or profiled to incorporate one or more of the recesses or notches 8 to house and accommodate knuckles and leg portions of poultry carcasses." Column 4, lines 20-24. Clearly, as shown in Figure 5 of *Chapman*, the notches 8 in the sector members 7 are not open at both ends thereby forming continuous slits. Moreover, as shown in Figure 5, the notches 8 of each pair appear to be parallel, thereby meaning the closed ends of each pair are separated by the same distance that the open ends of each pair are separated by.

Due to these clear shortcomings of the *Chapman* reference, Applicants respectfully assert that *Chapman* does not anticipate independent claim 14. Therefore, Applicants respectfully request that the rejection of this claim be withdrawn.

D. Claim 17 and 19

Dependent claims 17 and 19, depending from independent claims 1 and 12, respectively, have been rejected in the Office Action. In that dependent claims 17 and 19 include all elements of their respective independent claims, they are allowable for at least the reasons that have been provided for the allowability of independent claims 1 and 12, respectively. Therefore, Applicants respectfully request that the rejection of these claims be withdrawn.

E. Rejection of Claims 18 and 20

Dependent claims 18 and 20, depending from independent claims 1 and 12, respectively, have been rejected in the Office Action. In that dependent claims 18 and 20 include all elements of their respective independent claims, they are allowable for at least the reasons that have been provided for the allowability of independent claims 1 and 12, respectively. Therefore, Applicants respectfully request that the rejection of these claims be withdrawn.

VI. Claim Rejections – 35 U.S.C. §103(a)

As acknowledged by the Court of Appeals for the Federal Circuit, the U.S. Patent and Trademark Office ("USPTO") has the burden under section 103 to establish a *prima facie* case of obviousness by showing some objective teaching in the prior art or generally available knowledge

of one of ordinary skill in the art that would lead that individual to the claimed invention. See *In re Fine*, 837, F.2d 1071, 5 U.S.P.Q.2d 1596, 1598 (Fed. Circ. 1988). Accordingly, to make a *prima facie* case for obviousness, there must be some prior art teaching or established knowledge that would suggest to a person having ordinary skill in the pertinent art to fill the voids apparent in the applied reference. It is respectfully asserted that no such *prima facie* case has been made in the outstanding Office Action.

A. Rejection of Claims 5, 6 and 13

Claims 5, 6 and 13 have been rejected under 35 U.S.C. §103(a) as being unpatentable over *Chapman* as applied to claims 1 and 12 above, and further in view of U.S. Patent No. 6,033,299 to *Stone et al.*

As discussed above, the *Chapman* reference is insufficient to anticipate independent claims 1 and 12 as amended. Applicants contend that the *Stone* reference does not disclose, teach, or suggest those elements that were found to be lacking in the *Chapman* reference. Therefore, the combination of the *Chapman* and *Stone* references fails to render independent claims 1 and 12, as amended, obvious. In that claims 5 and 6 depend from independent claim 1 and dependent claim 13 depends from independent claim 12, and therefore include all elements disclosed therein, dependent claims 5, 6 and 13 are allowable as a matter of law. Therefore, Applicants respectfully request that the rejection of these claims be withdrawn.

B. Claims 7 and 8

Claims 7 and 8 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Chapman* as modified by *Stone et al.* as applied to claim 6 above, and further in view of U.S. Patent No. 5,453,045 to *Hobbel, et al.*

As discussed above, the *Chapman* and *Stone* references are insufficient to render independent claim 1, as amended, obvious. Applicants further contend that the *Hobbel* reference does not disclose, teach, or suggest those elements that were found to be lacking in the *Chapman* and *Stone* references, as combined. Therefore, the combination of the *Chapman*, *Stone* and *Hobbel* references fails to render independent claim 1, as amended, obvious. In that claims 7 and 8 depend from independent claim 1 and therefore include all elements disclosed therein,

dependent claims 7 and 8 are allowable as a matter of law. Therefore, Applicants respectfully request that the rejection of these claims be withdrawn.

C. Claim 9

Claim is rejected under 35 U.S.C. §103(a) as being unpatentable over *Chapman* as modified by *Stone et al.* and *Hobbel et al.* as applied to claim 7 above, and further in view of U.S. Patent No. 5,344,360 to *Hazenbroek*.

As discussed above, the *Chapman*, *Stone* and *Hobbel* references are insufficient to render independent claim 1, as amended, obvious. Applicants further contend that the *Hazenbroek* reference does not disclose, teach, or suggest those elements that were found to be lacking in the *Chapman*, *Stone* and *Hobbel* references. Therefore, the combination of the *Chapman*, *Stone*, *Hobbel* and *Hazenbroek* references fails to render independent claim 1, as amended, obvious. In that claim 9 depends from independent claim 1 and therefore includes all elements disclosed therein, dependent claim 9 is allowable as a matter of law. Therefore, Applicants respectfully request that the rejection of these claims be withdrawn.

D. Claims 10 and 11

Claims 10 and 11 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Chapman* as modified by *Stone et al.* as applied to claim 6 above, and further in view of U.S. Application, Publication No. 2002/00031998 to *Kerstholt*.

As discussed above, the *Chapman* and *Stone* references are insufficient to anticipate independent claim 14 as amended. Applicants further contend that the *Kerstholt* reference does not disclose, teach, or suggest those elements that were found to be lacking in the *Chapman* and *Stone* references. Therefore, the combination of the *Chapman*, *Stone* and *Kerstholt* references fails to render independent claim 1, as amended, obvious. In that claims 10 and 11 depend from independent claim 1 and therefore include all elements disclosed therein, dependent claims 10 and 11 are allowable as a matter of law. Therefore, Applicants respectfully request that the rejection of these claims be withdrawn.

E. Claims 15 and 16

Claims 15 and 16 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Chapman* as applied to claim 14 above, and further in view of U.S. Patent No. 4,597,133 to *van de Nieuwelaar*.

As discussed above, the *Chapman* reference is insufficient to anticipate independent claim 14 as amended. Applicants contend that the *van de Nieuwelaar* reference does not disclose, teach, or suggest those elements that were found to be lacking in the *Chapman* reference. Therefore, the combination of the *Chapman* and *van de Nieuwelaar* references fails to render independent claim 14, as amended, obvious. In that claims 15 and 16 depend from independent claim 14 and therefore include all elements disclosed therein, dependent claims 15 and 16 are allowable as a matter of law. Therefore, Applicants respectfully request that the rejection of these claims be withdrawn.

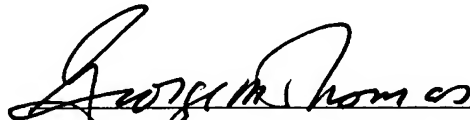
VII. New Claims

Claims 21-24 have been newly added to further define and/or clarify the scope of the invention. Claims 21-24 are allowable for at least the reason that the prior art, either alone or in combination, does not disclose an apparatus for transferring poultry carcasses from a first overhead conveyor to a second overhead conveyor wherein each carcass holder has a first orientation at a receipt point on a transfer wheel and a second orientation at a discharge point of the transfer wheel, and the orientation of the carcass holders is maintained during the transfer, to deliver the carcasses in the same orientation as they were received.

CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 1-24 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned agent at (770) 933-9500.

Respectfully submitted,


George M. Thomas; Reg. No. 22,260

**THOMAS, KAYDEN,
HORSTEMEYER & RISLEY, L.L.P.**
Suite 1750
100 Galleria Parkway N.W.
Atlanta, Georgia 30339
(770) 933-9500